

DISCIPLINARY ACTION

Private Admonition - Board Case No. 18, 2001. Date of Sanction: October 2, 2001.

A panel of the Preliminary Review Committee of the Board on Professional Responsibility offered a private admonition, with conditions, to an attorney as a result of its finding that there was probable cause to conclude that the attorney had violated Rule 1.3 of the Delaware Lawyers' Rules of Professional Conduct ("Rules"). The attorney accepted the private admonition and admitted that he violated Rule 1.3 by failing to diligently pursue his client's federal civil action.

The attorney was retained to represent a client in connection with any claims he might have had for injuries sustained while incarcerated in Delaware. The attorney engaged the assistance of an out of state law firm to research the viability of his client's cause(s) of action. This other firm ultimately determined that the claims would be costly and difficult to prove. While the file was in the control of the other law firm, the statute of limitations expired. The client maintains that he was aware of the statute of limitations. The attorney indicated that, throughout the course of the representation, he had difficulty contacting his client; however, the client file contained no documentation of attempts to reach the client and advise him of the pending expiration of the statute of limitations prior to its expiration. No suit was filed to preserve the clients rights prior to the expiration of the statute of limitations.

As a result of this sanction, the attorney must fulfill the following conditions:

- consult with a member of the Professional Guidance Committee to review his law office management practice and provide a report to the ODC of the evaluation of his management practice and any remedial measures taken;
- reimburse ODC for the costs of its investigation in the disciplinary matter.

The attorney had a prior disciplinary record for conduct unrelated to the above matters.